**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**
**&**
**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929**

**FAO. No. 153 of 2007**
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**AGAINST THE ORDER DATED 13/04/2007 IN IA.1156/06 IN OS.94/2006 of ADDL.SUB COURT, THALASSERY**
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**APPELLANTS/RESPONDENTS 1 TO 7:**
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1. **NOORUNISA T.P.,**
   **W/O. KUNHIPARAL BHASHEER, AGED 38 YEARS, NO JOB,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

2. **NOUSHIBA, KUNHIPARAL BHASHEER,**
   **AGED 21 YEARS, NASEEB, CHALAKKARA, POST PALLOOR,**
   **PONDICHERY STATE.**

3. **NAMSHEED (MINOR),**
   **S/O. KUNHIPARAL BHASHER, AGED 13 YEARS,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

4. **RASHIDH (MINOR),**
   **S/O. KUNHIPARAL BHASHER, AGED 17 YEARS,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

5. **FARIS (MINOR),**
   **S/O. KUNHIPARAL BHASHEER, AGED 15 YEARS,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

6. **FEBINA (MINOR),**
   **D/O. KUNHIPARAL BHASHEER, AGED 8 YEARS,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

7. **NASEEF (MINOR),**
   **S/O. KUNHIPARAL BHASHER, AGED 3 YEARS,**
   **NASEEB, CHALAKKARA, POST PALLOOR, PONDICHERY STATE.**

   **(APPELLANTS 3 TO 7 ARE MINORS REPRESENTED BY THEIR GUARDIAN AND NEXT FRIEND 1ST APPELLANT NOORUNISA T.P.).**

   **BY ADV. SRI. P.M. PAREETH**

**RESPONDENTS/PETITIONER & RESPONDENTS 8 TO 12.**
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1. **KUNHAMI, W/O. ABU, AGED 78 YEARS,**
   **NO JOB, KUNHIPARAL HOUSE, ZEENATH MANZIL,**
   **P.O.KURICHIYIL, KODIYERI AMSOM DESOM,**
   **THALASSERY TALUK.**

2. **BRANCH MANAGER, CANARA BANK, PALLOOR.**

3. **BRANCH MANAGER, CANARA BANK,**
   **THALASSERY.**

4. **BRANCH MANAGER, STATE BANK OF INDIA,**
   **MAIN BRANCH, THALASSERY.**

5. **BRANCH MANAGER,**
   **PUNNOL SERVICE CO-OPERATIVE BANK, NEW MAHE.**

6. **BRANCH MANAGER,**
   **LIFE INSURANCE CORPORATION OF INDIA,**
   **NEAR FLYOVER THALASSERY, THALASSERY P.O.**

**BY ADV. SRI. C.P. PEETHAMBARAN**
**SRI. V.B. HARI NARAYANAN**

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.**

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**F.A.O. No. 153 OF 2007**

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**Dated this the 20th day of June, 2007.**

**J U D G M E N T**

**Kurian Joseph, J.**

This is an appeal filed against the order dated 13.04.2007 in I.A. No. 1156/2006 in O.S. No. 94/2006 on the file of Additional Sub Court, Thalassery. As per the impugned order, the court below appointed court receiver in respect of the plaint schedule property.

2. The suit is one for partition. It is the main contention of the respondents 1 to 7 that the appellants are entitled to 5/6 share of the properties and the plaintiff is entitled to only 1/6 share. It is further submitted that, of the 4 items of the property only item No. 4 is actually owned by the deceased. Item No. 4 consists of six residential quarters. For collecting rent from the said quarters, it is submitted that the court receiver is not necessary. Still further it is submitted that appointment of a court receiver would cause severe loss to the estate.

Having regard to the contentions raised by the parties, we are of the view that, in the facts and circumstances of the case, interests of the parties can be safeguarded if appellants 1 and 2 are appointed as court receivers. Appeal is hence partly allowed modifying the order in I.A. No. 1156/2006 in O.S. No. 94/2006 on the file of Additional Sub Court, Thalassery. Instead of the court receiver, appellants 1 and 2 are appointed as receivers in respect of the property referred to in the order. The Sub Court will also take steps to dispose of the suit itself, expeditiously.

**KURIAN JOSEPH**
**JUDGE**

**T.R. RAMACHANDRAN NAIR**
**JUDGE**

smp